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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,455	03/25/2004	Darko Pervan	033462-045	4858
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			EXAMINER JUNKER, JONATHAN T	
			ART UNIT	PAPER NUMBER
			3635	

DATE MAILED: 10/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,455

Applicant(s)

PERVAN, DARKO

Examiner

Jonathan T. Junker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10 and 13-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5,7 and 13-18 is/are rejected.
- 7) ☐ Claim(s) 2, 6 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3. Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :6/21/2004, 6/30/2005, 2/01/2006.

DETAILED ACTION

Claims 1-7, 10 and 13-18 are pending and are examined below. Claims 8, 9, 11 and 12 are not elected.

Response to Amendment

In response to the applicants remarks, the restriction to species IV is upheld. Species IV discloses a locking element 8 that has a squared inner surface with a fillet on the bottom edge, where in species I the locking elements are beveled. Furthermore, species IV discloses several embodiments of the connection between 1' and the locking element 8 of board 1. The differing embodiments would require several different searches, which would place an undue burden on the examiner. Species I will be examined on the merits.

Specification

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

Claim 13 is objected to because of the following informalities: In the first line of the claim the phrase method of manufacturing is used, however, there are no method

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steps drawn to the manufacturing of the product. The claim is drawn to a method of assembly. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "locking angle" in claims 7 and 10 is a relative term, which render the claims indefinite. The term "locking angle" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention. It is unclear whether the term "locking angle" refers to the geometric shape of the board or if the term refers to the angle in which a board is inserted into another in respect to the horizontal.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-5, 7, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Pervan et al. US Patent pplication Publication US 2003/0101674 A1.

Regarding claim 1, Pervan et al. discloses a flooring system comprising rectangular floorboards which are mechanically lockable (fig 4A), in which system the individual floorboards along their long sides have pairs of opposing connectors (4a and 4b fig 4A) for locking together similar, adjoining floorboards both vertically and horizontally and along their short sides have pairs of opposing connectors (5a and 5b fig 4A) which lock the floorboards horizontally, wherein the connectors of the floorboards are designed to allow locking together of the long sides by angling along an upper joint edge (page 1 column 1 paragraph 6 lines 8-11), wherein the system comprises two different types of floorboards (page 4 column 1 paragraph 45 lines 15-18), the connectors of one type of the floorboards along one pair of opposite edge portions arranged in a mirror-inverted manner relative to the corresponding connectors along the same pair of opposite edge portions of the other type of floorboards (claim 1 paragraph 4).

Regarding claim 3, Pervan et al. discloses the flooring system as claimed in claim 1, wherein the connectors of the floorboards on the short sides are designed so as to allow horizontal locking by an essentially vertical motion (fig 1A). The board 1' cannot simply slide in into the female portion of board 1 in a purely horizontal motion, at

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some point the board 1' will have to be moved in an essentially vertical motion to permit the interlocking of boards 1 and 1'.

Regarding claim 4, Pervan et al. discloses a the flooring system as claimed in claim 3, wherein the floorboards are disconnectable by an angular motion away from the subfloor (fig 1A). To remove board 1' from the female portion of 1 it would be necessary to use an angular motion away from the subfloor.

Regarding claim 5, the flooring system as claimed in claim 1, wherein the floorboards are disconnectable by an angular motion away from the subfloor (fig 1A). To remove board 1' from the female portion of 1 it would be necessary to use an angular motion away from the subfloor.

Regarding claim 7, the flooring system as claimed in claim 6, wherein the cooperating locking surfaces of the short sides have a higher locking angle to the front side of the floorboard than do the cooperating locking surfaces of the long sides (fig 1A). It is assumed that the meaning of term locking angle is meant to mean the angle in which one board is inserted into another in respect to the horizontal. It is noted that the locking angle for either the short side or the long side is left to the installer's discursion. There is of course a minimum angle that must be achieved for the two board to interlock however the installer could use any angle over the minimum angle that the installer deems necessary to achieve lockability.

Regarding claim 17, Pervan et al. discloses a floor that can be made by the method of locking together two long sides of at least two floorboards of the first type of floorboard by angling towards two similar floorboards of the same type; and locking together another floorboard of the second type of floorboard by inward angling towards a similar floorboard of the same type (fig 5B).

Regarding claim 18, Pervan et al. discloses a flooring system comprising: rectangular floorboards with long sides which have pairs of opposing connectors (4a and 4b fig 4A) which at least allow locking-together both horizontally and vertically by inward angling, wherein the system comprises floorboards with a surface layer of laminate (page 1 column 1 paragraph 4 line 9), said floorboards being joined in a herringbone pattern (fig 5 b), and that joining and disconnecting is achievable by an angular motion (fig 1A). To remove board 1' from the female portion of 1 it would be necessary to use an angular motion.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pervan et al. US Patent Application Publication US 2003/0101674 A1.

Regarding claim 13, Pervan et al. discloses a flooring system however, does not disclose a method that joins a floorboard of the second type in a new row to a last laid floorboard of the first type in a preceding row. It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the boards in rows of alternating types of boards to achieve a desired design.

Regarding claim 14, Pervan et al. discloses a flooring system that is capable of meeting the method as claimed in claim 13, wherein the floorboards are laid in parallel rows. It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the boards in rows of alternating types of boards in parallel rows to achieve a desired design.

Regarding claim 15, Pervan et al. discloses an flooring system that is capable of meeting the method as claimed in claim 13, wherein the horizontal connectors on the short sides have cooperating locking surfaces which are designed differently from the cooperating locking surfaces on the long sides. In figure 4A the connectors of the shorts side are obviously designed differently from that of the long side, because the sides of the floorboards differ in length.

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Regarding claim 16, Pervan et al. discloses a flooring system that is capable of meeting the method as claimed in claim 15, wherein the floorboards are laid in parallel rows. It would have been obvious to one of ordinary skill in the art at the time the invention was made to connect the boards in rows of alternating types of boards in parallel rows to achieve a desired design.

Claim Objections

Claims 2, 6 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan T. Junker whose telephone number is (571)272-4020. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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10/12/2006



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